UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,312	10/08/2003	Anthony G. Macaluso	13817-005001	7323

				EXAMINER
20985	7590	07/05/2006		VU, MICHAEL T

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ART UNIT	PAPER NUMBER
2617	

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

		Application No.	Applicant(s)
Office Action Summary		10/682,312	MACALUSO, ANTHONY G.
		Examiner	Art Unit
		Michael Vu	2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 June 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-41* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-41* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   The Art Unit location of your application in the USPTO has changed. To aid in

correlating any papers for this application, all further correspondence regarding this

application should be directed to Art Unit 2617.

Response to Arguments

2.   Applicant's arguments with respect to claims 1, 16, 24 and 32 on June 13, 2006

have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 1-23, 32-41 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Hoffman (US 6,622,017) in view of Minear (US 2003/0032417)

Regarding **claim 1**, Hoffman teaches a method for providing services to a mobile

device (Fig. 2, Wireless Carrier Network), the method comprising: receiving a request

from the mobile device (Fig. 2, element 5) for mobile service subscription choices (Fig.

2, Features Service Database element 29, and Provisioning Data element 27); sending

data to the mobile device relating to mobile service subscription choices (Fig. 1,

Distribution/Programming Procedure, 3rd Party element 37, use Subscriber Selections to

Mobile device), wherein the subscription choices are sent to the mobile device over a

wireless communication path (Fig. 1 and Fig. 2, via base station 13 to mobile 5),

receiving a selection of at least one subscription choice from the mobile device over the

wireless communication path; and activating a service corresponding to the at least one

selected subscription choice in response to the selection.

But is unclear on the subscription choices are for selection by a user of the

mobile device, and the subscription choices comprises choices to initiate or modify a

subscription to enable wireless communications over a wireless network.

However, Minear teaches (See Figs. 1-5, [0023-0037]) the users of wireless

telephones can customize their wireless telephones through the selective downloading

of applications via the wireless network, and further teaches the users of wireless

telephone desired to download applications to the wireless device by using the BREW

platform (Figs. 1-5, [0005-0006, 0010-0014]).

Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify Hoffman, such that the subscription choices are

for selection by a user of the mobile device, and the subscription choices comprises

choices to initiate or modify a subscription to enable wireless communications over a

wireless network, to provide the flexibility of users desired to select, option, customize,

or choose the applications download from server to the wireless devices via the wireless

network.

Regarding **claim 2**, Hoffman/Minear teach in claim 1, wherein the request for

mobile subscription choices from the mobile device comprises an activation request

(C3, L48-67, C6, L5-65) of Minear.

Regarding **claim 3**, Hoffman/Minear teach in claim 1, wherein the mobile device

comprises a mobile phone (Fig. 1, mobile phone) of Minear.

Regarding **claim 4**, Hoffman/Minear teach in claim 1, wherein the mobile device

is capable of operation with a plurality of service providers ([0002, 0018, 0025],

Providers=Carriers/Servers) of Minear.

Regarding **claim 5**, Hoffman/Minear teach in claim 4, wherein the data relating to

mobile subscription choices comprises an identification of a plurality of available service

providers and the selection of at least one subscription option comprises an

identification of a selected service provider (C1, L45-67) of Hoffman.

Regarding **claim 6**, Hoffman/Minear teach in claim 5, wherein the available

service providers comprise mobile virtual network operators (Figs. 1-2) of Hoffman.

Regarding **claim 7**, Hoffman/Minear teach in claim 5, wherein activating a

service comprises sending data representing at least one setting for the mobile device,

with the data being sent over the wireless communication path (Figs. 1-5, [0005-0037])

of Minear.

Regarding **claim 8**, Hoffman/Minear teach in claim 7, wherein the at least one

setting allows the mobile device to obtain service from the selected service provider

[0005-0037] of Minear.

Regarding **claim 9**, Hoffman/Minear teach in claim 7, wherein the at least one setting comprises a preferred roaming list (C1, L45-67) of Hoffman.

Regarding **claim 10**, Hoffman/Minear teach in claim 7, wherein the data relating to mobile subscription choices and the data representing at least one setting for the mobile device are adapted for use on a Binary Runtime Environment for Wireless (BREW) platform on the mobile device (Fig. 3, BREW #62) of Minear.

Regarding **claim 11**, Hoffman/Minear teach in claim 7, wherein the data relating to mobile subscription choices and the data representing at least one setting for the mobile device are adapted for use on a Java platform on the mobile device (Fig. 3, BREW) of Minear.

Regarding **claim 12**, Hoffman/Minear teach in claim 7, wherein the data relating to mobile subscription choices comprises an identification of a plurality of available service plans (C1, L19-67) of Hoffman.

Regarding **claim 13**, Hoffman/Minear teach in claim 1, wherein activating a service comprises selecting settings data associated with the selected subscription option from stored respective sets of settings data associated with each of the mobile services subscriptions choices [0005-0016] of Minear.

Regarding **claim 14**, Hoffman/Minear teach claim 13, wherein the settings data comprises a preferred roaming list selected from a plurality of preferred roaming lists (C1, L45-67) of Hoffman.

Regarding **claim 15**, Hoffman/Minear teach in claim 1, wherein the method is

performed by a server remote from and in wireless communication with the mobile

device (Figs. 1-5) of Minear.

Regarding **claim 16**, Hoffman teaches a method of provisioning settings for a

mobile device (Abstract) the method comprising: receiving information associating a

mobile device with a particular service (C1, L45-67), identifying settings data associated

with the particular service from a database containing settings data for a plurality of

services (C1, L35-67); and sending settings data for the particular service to the mobile

device over a wireless communication link (Title, Abstract), wherein the settings data is

configured to change operational settings for the mobile device (C13, L65-67 to C14,

L1-14).

But is unclear on the particular service being a service to enable wireless

communications over a wireless network.

However, Minear teaches (See Figs. 1-5, [0023-0037]) the users of wireless

telephones can customize their wireless telephones through the selective downloading

of applications via the wireless network, and further teaches the users of wireless

telephone desired to download applications to the wireless device by using the BREW

platform (Figs. 1-5, [0005-0006, 0010-0014]).

Therefore, it would have been obvious to one of ordinary skill in the art at the .

time the invention was made to modify Hoffman, such that the particular service being a

service to enable wireless communications over a wireless network, to provide the

flexibility of users desired to select, option, customize, or choose the applications

download from server to the wireless devices via the wireless network.

Regarding **claim 17**, Hoffman/Minear teach in claim 16, wherein the particular

service comprises a mobile voice communication service associated with a specific

service provider (C1, L27-67) of Hoffman.

Regarding **claim 18**, Hoffman/Minear teach in claim 17, wherein the settings data

comprises a preferred roaming list for the specific service provider (C1, L27-67) of

Hoffman.

Regarding **claim 19**, Hoffman/Minear teach in claim 17, wherein the settings data

identifies operational settings that, when installed on the mobile device, enable the

mobile device to access the particular service provided by the specific service provide

(C1, L27-67) of Hoffman.

Regarding **claim 20**, Hoffman/Minear teach in claim 17, wherein the particular

service is offered by a mobile virtual network operator (Figs. 1-2) of Hoffman.

Regarding **claim 21**, Hoffman/Minear teach in claim 16, wherein the application

on the mobile device is adapted for use on a Binary Runtime Environment for Wireless

(BREW) platform on the mobile device (Fig. 3, BREW #62) of Minear.

Regarding **claim 22**, Hoffman/Minear teach in claim 16, wherein the application

on the mobile device is adapted for use on a Java platform on the mobile device (Fig. 3,

BREW) of Minear.

Regarding **claim 23**, Hoffman/Minear teach in claim 16, wherein the plurality of

services comprises a plurality of mutually exclusive mobile communication services and

the database of settings data stores settings data for each of the mutually exclusive

mobile communication services (Figs. 1-2) of Hoffman.

Regarding **claim 32**, Hoffman teaches a system comprising: an application

download server storing mobile device settings for accessing services associated with

at least one mobile service provider (Fig. 2, Features Services Database / OTA

Application Server, Abstract, and C2, 18-32), wherein the application download server is

operable to selectively send the mobile device settings to selected mobile devices for

use in modifying the settings for each selected mobile device (C2, 8-15, and C8, L41-

55); and a mobile communication system interface for connecting the application

download server to a mobile communication system (C1, L45-58, C1, 60-67, and C3,

L35-43), wherein the mobile device settings are sent to the mobile device over a

wireless communication link between the mobile device and the mobile communication

system (Fig. 2, Tilte, Abstract, Wireless Carrier Network #37).

But is unclear on the services comprises a service to enable wireless

communications over a wireless network.

However, Minear teaches (See Figs. 1-5, [0023-0037]) the users of wireless

telephones can customize their wireless telephones through the selective downloading

of applications via the wireless network, and further teaches the users of wireless

telephone desired to download applications to the wireless device by using the BREW

platform (Figs. 1-5, [0005-0006, 0010-0014]).

Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify Hoffman, such that the particular service being a

service to enable wireless communications over a wireless network, to provide the
flexibility of users desired to select, option, customize, or choose the applications
download from server to the wireless devices via the wireless network.

Regarding **claim 33**, Hoffman/Minear teach in claim 32, wherein the services
associated with the at least one mobile service provider comprise wireless
communication services (Figs. 1-2, C1, L19-67) of Hoffman.

Regarding **claim 34**, Hoffman/Minear teach in claim 33, wherein the mobile
device settings comprise settings necessary to enable the mobile devices to access the
wireless communication services for the at least one mobile service provider (Figs. 1-2,
C1, L19-67) of Hoffman.

Regarding **claim 35**, Hoffman/Minear teach in claim 33, wherein the mobile
device settings comprise a plurality of preferred roaming lists, with each preferred
roaming list associated with a particular service provider (Figs. 1-2, C1, L19-67) of
Hoffman.

Regarding **claim 36**, Hoffman/Minear teach in claim 35, wherein a preferred
roaming list is sent to each mobile device, with the preferred roaming list corresponding
to a selection of a service provider received through the mobile communication system
interface from the mobile device (Figs. 1-2, C1, L19-67) of Hoffman.

Regarding **claim 37**, Hoffman/Minear teach in claim 33, wherein the at least one
mobile service provider comprises a mobile virtual network operator (C10, 33-43) of
Hoffman.

Regarding **claim 38**, Hoffman/Minear teach in claim 33, wherein the application download server further stores applications for downloading to the mobile devices through the mobile communication system, with at least one of the applications comprising instructions for enabling a user to select a particular service provider from which to receive wireless communication services (C2, L33-41, C14, L1-32) of Hoffman.

Regarding **claim 39**, Hoffman teaches in claim 38, **but is silent on** wherein the applications are adapted for execution on a Binary Runtime Environment for Wireless (BREW) platform (Fig. 3, BREW #62) of Minear.

Regarding **claim 40**, Hoffman/Minear teach in claim 32, wherein the mobile device settings comprise a software patch for one or more selected mobile devices (Abstract, Summary of the Invention) of Hoffman.

Regarding **claim 41**, Hoffman/Minear teach in claim 32, wherein the mobile device settings comprise a telephone number (Fig. 3) of Hoffman.

5.   Claims 24-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sears (US 2002/0069263) in view of Minear.

Regarding **claim 24**, Sears teaches a mobile device (Fig. 1, #140 User/Device) comprising: a transceiver operable to communicate over a wireless communication link (Fig. 1, User/ Device #140); at least one memory storing an address of a server that stores settings data associated with at least one mobile service and storing client software for an application execution environment (mobile phone #140 received and storing application software into mobile device), wherein the at least one memory is

operable to store at least one application that is executable on the client software and that includes instructions for communicating with the server at the stored address (mobile phone has a transceiver, processor, storage and memory to communicate with the server [0007, 0012], receiving settings data [0012], and storing the received settings data in the at least one memory [0012]; and a processor coupled to the transceiver and the at least one memory [0012, 0014], wherein the processor is operable to execute the at least one stored application and to control communications by the transceiver (Fig. 1, User Device #140).

But is unclear on the at least one mobile service comprises a service to enable wireless communications over a wireless network.

However, Minear teaches (See Figs. 1-5, [0023-0037]) the users of wireless telephones can customize their wireless telephones through the selective downloading of applications via the wireless network, and further teaches the users of wireless telephone desired to download applications to the wireless device by using the BREW platform (Figs. 1-5, [0005-0006, 0010-0014]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hoffman, such that the at least one mobile service comprises a service to enable wireless communications over a wireless network, to provide the flexibility of users desired to select, option, customize, or choose the applications download from server to the wireless devices via the wireless network.

Regarding **claim 25**, Sears/Minear teach in claim 24, wherein the server comprises an application download server (Fig. 2, #16 Download Server) of Minear.

Regarding **claim 26**, the combination of Sears/Minear teach in claim 24, wherein

the client software comprises Binary Runtime Environment for Wireless (BREW) client

software [0061] of Sears.

Regarding **claim 27**, the combination of Sears/Minear teach in claim 26, herein

the at least one application is adapted for execution by the BREW client software [0061]

of Sears.

Regarding **claim 28**, the combination of Sears/Minear teach in claim 26, wherein

the client software comprises Java virtual machine software (Title, Abstract, and Fig.1

Java Apllication Servers) of Sears.

Regarding **claim 29**, the combination of Sears/Minear teach in claim 24, wherein

the received settings data comprises settings that enable wireless communications

using a particular service provider ([0002, 0004]) of Sears.

Regarding **claim 30**, the combination of Sears/Minear teach in claim 29, further

comprising a visual display [0005, 0009], wherein the at least one application comprises

instructions for causing the processor to [0005, 0009]: retrieve a list of available service

providers from the server [0002, 0004, and 0012]; display the list of available service

providers on the visual display [0005, 0009]; receive a user selection of a particular

service provider [0012, 0013]; and transmit an indication of the user selection from the

transceiver to the server [0012, 0013, and claim 14 reads on] of Sears.

Regarding **claim 31**, the combination of Sears/Minear teach in claim 24, further

comprising a visual display [0005, 0009], wherein the at least one application comprises

instructions for causing the processor to [0025, 0053, 0054]: retrieve a list of available

service plans from the server [0002, 0004, 0012]; display the list of available service

plans on the visual display [0005, 0009]; receive a user selection of a particular service

plan [0012, 0013]; and transmit an indication of the user selection from the transceiver

to the server [0012, 0013, and claim 14 reads on] of Sears.


Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Michael Vu whose telephone number is (571) 272-8131.

The examiner can normally be reached on 8:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Duc Nguyen can be reached on 571-272-7503. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael Vu
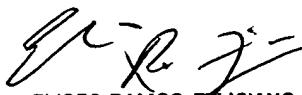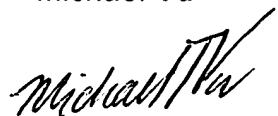
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